IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22456 of 2004

Between:

Dr.K.Ramanath, S/o. K.C.Venkata Subbaiah,

Aged 62 years, Retired Civil Surgeon Specialist,
H.No.20-181, Jammalamadugu, Gandhi Road,
Kadapa District.

..... PETITIONER

AND

1 The Government of A.P., rep.by its Secretary,

Health Medical and Family Welfare(A2) Department,
Secretariat, Hyderabad.
2 The Director of Medical Education,

Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records pertaining to the order in O.A.No.3229 of 1999 dated 25th March, 2004 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same in so far as it purports to confirm the punishment of stoppage of three increments with cumulative effect and also the action in directing to treat the period as on duty from 05-11-1986 in stead of 10-02-1986 when he gave a joining report as illegal and arbitrary and pass such other order or orders.

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondents: GP FOR MEDICAL

HEALTH & FAMILY WELFARE

The Court made the following :

O R D E R: (Per Sri G.B,J)

The Writ Petition is filed assailing the Order dated 25-03-2004 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.3229 of 1999.

2. The petitioner was initially removed from service for unauthorised absence with effect from 24-04-1983. However, the same was challenged by the petitioner before the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.41325 of 1990. The Tribunal, by an Order dated 02-06-1997, directed the authorities to serve copy of the enquiry report on the petitioner and complete the disciplinary proceedings. In pursuance of the said Order, the petitioner was reinstated into service by an order passed by the Government in G.O.Ms.No.462, Health and Family Welfare (A2) Department, dated 15-10-1998. However, the Government passed punishment of stoppage of three increments with cumulative effect besides treating the period from 24-04-1983 to 10-02-1986 as *dies non*. The said Order came to be challenged by the petitioner in O.A.No.3229 of 1999. The learned Tribunal, however, while confirming the order of punishment, directed the authorities to treat the *dies non* period as not on duty so as to maintain the continuity of service for the purpose of terminal benefits. Accordingly, the Government issued Order in pursuance of the directions of the Tribunal. However, the order of the Tribunal dated 25-03-2004 was assailed by the petitioner before this Court.

3. The learned counsel appearing for the petitioner submits that the very imposition of punishment order is without jurisdiction inasmuch as the Tribunal for disciplinary proceedings has jurisdiction to deal with the matter and the

absence was not considered by the Tribunal. Therefore, on this ground also, the order is liable to be set aside. Even on merits also, the learned counsel would submit that no case is made out for imposing punishment of deferment of increment with cumulative effect.

4. The learned Government Pleader brought to the notice of this Court that the petitioner retired from service in the year 2000 and, therefore, the effect of punishment is only withholding of one increment, as the increment, which ought to have fallen in the year 1999, will be withheld by virtue of the Order of punishment.

5. Under those circumstances, we find that instead of considering the legal contention raised by the petitioner that the Tribunal for disciplinary proceedings, has the jurisdiction and not the disciplinary authority, we find it appropriate to clarify the matter and close the same in order to give quietus to the litigation. Accordingly, we do not find any ground to interfere with the order of punishment. However, we make it clear that the impugned order of punishment will not have any effect on the pension and other terminal benefits except the increment, which falls due to the petitioner in 1999, will only be withheld.

6. With the above observation, the Writ Petition is closed. The respondents are directed to release the terminal benefits, if not already released, as expeditiously as possible, within a period of two months, from the date of receipt of a copy of this Order. No costs.

_____

G.BIKSHAPATHY, J

_____

P.S.NARAYANA, J

Dated: 07-12-2004

Bsb/Prv

To

1 The Secretary, Government of Andhra Pradesh,

Health Medical and Family Welfare(A2) Department,
Secretariat, Hyderabad.

2 The Director of Medical Education,

Andhra Pradesh, Hyderabad.

3 Two CCs to GP for Medical Health and Family Welfare,

High Court of A.P., Hyderabad (OUT).

4. The Registrar, A.P. Administrative Tribunal, Hyderabad.

5. Two CD copies.